

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Identity Group LLC)	
	Map 65, Control Map 65, Parcel 102.01, S.I. 000)	Putnam County
	Industrial Property)	
	Tax Year 2006)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$759,900	\$2,425,300	\$3,185,200	\$1,274,080

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on May 14, 2007 in Cookeville, Tennessee. In attendance at the hearing were registered agent Larry Burks, Putnam County Property Assessor's representative Wayne Gaw and James R. Young, Jr., an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 21.71 acre site improved with a 129,635 square foot manufacturing and warehouse facility located at 1480 Gould Drive in Cookeville, Tennessee. The majority of subject building (77,312 square feet) was constructed in 1974. Additions of 25,600 square feet and 24,450 square feet were completed in 1997 and 2000 respectively.

The taxpayer contended that subject property should be valued at \$19.00 per square foot or \$2,463,065. In support of this position, five comparable sales were introduced into evidence. Mr. Burks maintained that the comparables support a value range of \$16.36 to \$21.28 per square foot after adjustments. Mr. Burks concluded that a value of \$19.00 per square foot was most appropriate for subject property.

The assessor contended that subject property should remain valued at \$3,185,200.¹ In support of this position, the testimony and written analysis of Mr. Young was offered into evidence. Like Mr. Burks, Mr. Young also relied on the sales comparison approach. Mr. Young summarized data concerning five comparable sales which sold for anywhere from \$20.83 to \$31.19 per square foot. Mr. Young asserted that the comparables support subject property's current appraisal of \$29.72 per square foot.

¹ The current appraisal of subject property includes only 107,167 square feet. The assessor has adjusted the appraisal for tax year 2007 by including the omitted addition.

The administrative judge finds that the differences, detailed in exhibit #3 and Mr. Burks' post-hearing filing concerning sale #5 can be summarized as follows:²

1. Sale #1
This property, located on a major commercial thoroughfare in Tullahoma across from a Wal-Mart, was purchased for the commercial potential of the land. According to the Coffee County Assessor's Office, the building is scheduled to be razed.
2. Sale #2
Both the property record card and Courthouse Retrieval Systems indicate the sale was not arm's-length.
3. Sale #3
This sale was disqualified by the Hawkins County Assessor of Property in the sales verification process because it involved related corporate entities.
4. Sale #4
The Cumberland County Assessor's Office disqualified this sale in the sales verification process. Moreover, Mr. Burks' photographs of this property indicate it is superior to the subject in terms of building quality.
5. Sale #5
Information from Courthouse Retrieval Systems indicates this sale was not an arm's length transaction. Moreover, subject property would presumably sell as a prime commercial site due to its location in relation to Providence MarketPlace and other ongoing commercial development in the immediate area.

The administrative judge finds that Mr. Burks' comparable sales were not challenged and should therefore be adopted as the basis of valuation.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$759,900	\$1,703,200	\$2,463,100	\$985,240

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be**

² Mr. Burks was not provided with sale #5 prior to the hearing and therefore did not address it in exhibit #3.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,463,100 in accordance with Mr. Burks' analysis.

The administrative judge finds that Mr. Burks' analysis should initially receive greater weight because he adjusted his comparables whereas Mr. Young did not. The administrative judge finds that the procedure typically utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001).

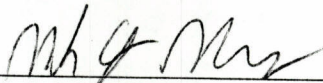
Respectfully, the administrative judge finds that Mr. Burks was seemingly most familiar with the comparables relied on by Mr. Young. The administrative judge finds Mr. Burks' testimony on rebuttal established that the comparables considered by Mr. Young are superior to the subject and either require significant adjustments or should be discarded.

filed within thirty (30) days from the date the initial decision is sent.”
Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 17th day of May, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Larry W. Burks
Rhonda Chaffin, Assessor of Property